



GRADUATION CEREMONY

Faculty of Law

16 July 2021

FACULTY OF LAW

Graduation ceremony held virtually on 16 July 2021 due to the COVID-19 pandemic and government restrictions around indoor gatherings.

ORDER OF PROCEEDINGS

Opening performance by amaAmbush Marimbas.

The Registrar will make introductory comments.

The Chancellor will constitute the congregation.

The National Anthem.

The University Dedication will be read by the President of the SRC.

Musical Item.

A message by the Dean of the Faculty.

Graduation poem by the imbongi.

The Chancellor will confer the qualifications.

Presentation of graduands' names.

The Vice-Chancellor will congratulate the new graduates and diplomates.

The Chancellor will congratulate the new graduates and diplomates and dissolve the congregation.

Closing performance by amaAmbush Marimbas.

NATIONAL ANTHEM

Nkosi sikelel' iAfrika
Maluphakanyisw' uphondolwayo,
Yizwa imithandazo yethu,
Nkosi sikelela, thina lusapho lwayo.

Morena boloka etjhaba sa heso,
O fedise dintwa la matshwenyeho,
O se boloke,
O se boloke setjhaba sa heso,
Setjhaba sa South Afrika – South Afrika.

Uit die blou van onse hemel,
Uit die diepte van ons see,
Oor ons ewige gebergtes,
Waar die kranse antwoord gee,

Sounds the call to come together,
And united we shall stand,
Let us live and strive for freedom,
In South Africa our land.

DISTINCTIONS IN THE FACULTY OF LAW

The Bachelor of Laws may be awarded cum laude where a student has obtained

an average of 70% in all law courses; and

a mark of at least 75% in at least six full law courses or the equivalent.

The Bachelor of Laws may be awarded magna cum laude where a student has obtained

an average of 75% in all law courses; and

a mark of at least 75% in at least nine full law courses or the equivalent.

The Postgraduate Diploma in Law may be awarded with distinction where a student has obtained an average mark of at least 75%.

The Master of Laws or the Master of Philosophy by minor dissertation and coursework may be awarded with distinction in the degree where a student has obtained an average mark of at least 75%.

The Master of Laws or the Master of Philosophy by dissertation may be awarded with distinction in the degree for especially meritorious work.

FACULTY OF LAW

Dean: Professor D Chirwa

DOCTOR OF PHILOSOPHY

Auld, Kathleen Gwynneth

Thesis Title: *Sustainable development of small-scale fisheries and the need for strong measures to protect small-scale fisheries in international trade law*

Kathleen Auld holds BCom, LLB, and LLM degrees from UCT, and began full-time study towards her PhD in 2018. She undertook legal articles in Cape Town, and was admitted as an Attorney, Notary, and Conveyancer of the High Court of South Africa in 2015.

Kathleen Auld's thesis focuses on problems facing small-scale fisheries, and considers how the development challenges of this group can best be provided for in international trade agreements dealing with fisheries subsidies. She created a framework of development needs of small-scale fisheries. This allows her to compare optimum development outcomes with what is currently being provided for small-scale fisheries in trade agreements. In considering current trade agreements she finds a number of shortcomings in the creation of good sustainable development outcomes for small-scale fisheries, as well as limitations on what can be included in these agreements. Her recommendations for these agreements going forward include, amongst others, the improvement of equity between different fishing sectors, participation of small-scale fisheries in issues that affect them, and the exemption of social development projects from subsidy bans, subject to conditions to protect the sustainability of aquatic ecosystems.

Supervisor: Professor Loretta Feris
(Public Law)

Cogger, Jonathan Robert

Thesis Title: *Inheritance and redistribution: exploring the constitutional commitment towards redistribution in the private law of succession*

Jonathan Cogger holds BA and LLB degrees from the University of the Witwatersrand. He began full-time study towards his PhD at the School of Law at UCT in 2015, and is currently practising as a human rights attorney in Cape Town.

Jonathan Cogger's thesis explores the extent to which the common law principle of freedom of testation is a constitutionally protected property right in light of constitutional commitments to redistribution, restitution and historical redress. His analysis involves an interpretation of the nature, purpose and scope of section 25 of the Constitution (the property clause) in the context of testate succession law. He critiques the accepted academic and judicial view that individual property ownership is central to the constitutional protection of freedom of testation. He argues that this interpretation of the property clause ignores accepted constitutional property jurisprudence of the interpretive approach to the property clause, which has emphasised that property protection should be subject to the overarching authority of the State to transform the legacy of past racial discrimination in access to land and property. His research shows that while freedom of testation should be constitutionally protected, this should never be at the expense of constitutional goals of promoting more equitable access to land.

Supervisor: Professor P de Vos
(Public Law)

Co-supervisor: Professor M Paleker
(Private Law)

Lehmann, Karin Helga

Thesis title: *The distribution of retirement fund death benefits: an analysis of the equitability and constitutionality of Section 37C of the Pension Funds Act 24 of 1956*

Karin Lehmann completed her BA LLB degrees at UCT and obtained her LLM from the University of

Nottingham. She is a lecturer in UCT's Department of Commercial Law.

Karin Lehmann's thesis comprises a critical examination of section 37C of the Pension Funds Act. That section governs the payment of so-called 'death benefits' which are lump sums that consist of the accumulated savings of retirement fund members, as well as the proceeds of any group life insurance that becomes payable on the death of a retirement fund member. The section provides that lump sums do not form part of the assets of retirement fund members' estates. As a result, the member does not have the right to select the beneficiaries of the lump sum. Instead, the right to do so is conferred on the trustees of the respective retirement fund. By analysing cases that have come before the Pension Funds Adjudicator, Karin Lehmann's thesis examines how section 37C of the Pensions Fund Act is applied in practice. Her findings lead to a conclusion that section 37C is unconstitutional in its design and inequitable in its operation, and thus in urgent need of legislative reform.

Supervisor: Professor D Chirwa
(Public Law)

Marumoagae, Motseotsile Clement

Thesis Title: *Adjudication of child relocation disputes in South Africa*

Motseotsile Marumoagae holds LLB and LLM degrees from the University of the Witwatersrand, in addition to an LLM degree from North West University.

Motseotsile Marumoagae's thesis focuses on the manner in which judges adjudicate child relocation disputes where one parent wishes to leave South Africa with children and the other parent opposes the proposed relocation.

Through examination of decided cases, he demonstrates that judges use very wide discretion when deciding cases of this kind. Some judges may emphasise particular factors to allow or deny permission to relocate, while other judges may render the same factors insignificant in order to reach alternative outcomes. This renders the law relating to child relocation disputes

inconsistent and unpredictable. He argues for the limitation of judicial discretion in child relocation disputes through the provision of legislative guidelines which will assist judges when determining these matters. He has crafted specific legislative guidelines which he argues should be used to limit judicial discretion in child relocation disputes. Furthermore, Motseotsele Marumoagae proposes amendment of the Children's Act 38 of 2005, to incorporate his proposed legislative guidelines. He is of the view that establishment of a legislative mechanism will enable judges to identify, select, weigh and adequately balance competing factors in child relocation disputes to ensure that all cases are thoroughly investigated and considered.

Supervisor: Associate Professor A Barratt (Private Law)

Monye, Ogochukwu Fidelia
Thesis Title: *Rethinking the legal and institutional framework for digital financial inclusion in Nigeria*

Ogochukwu Monye completed her Bachelor of Laws degree at the University of Nigeria and obtained her Master of Laws degree at Queen Mary University, London. She is a lecturer in the Business Law Department, University of Benin, Nigeria.

Ogochukwu Monye's thesis considers the suitability of Nigeria's legal and regulatory framework for financial inclusion as a basis for addressing the needs of the financially excluded in that country. Her thesis investigates the reasons for the country's high financial exclusion figures, in spite of an abundance of regulatory initiatives. Using a combination of doctrinal and empirical methods, she highlights the burden experienced by Nigeria's financially excluded in attempting to access financial services. She goes on to discuss the country's strategies for financial inclusion and to explore various options for regulatory policy adjustments. The goal of Ogochukwu Monye's thesis is to inform processes of instituting regulatory changes that can drive a methodical migration of ever

more of Nigeria's excluded class into the formal financial sector.

Supervisor: Associate Professor A Ordor (Commercial Law)
Co-supervisor: S Buthelezi (Stanford University)

Mudimu, Godknows
Thesis title: *The effectiveness of codes of conduct of selected South African mining companies in regulating labour standards: window dressing or genuine regulatory instruments?*

Godknows Mudimu holds a BSocSc and LLB from Rhodes University and an LLM degree from UCT. He has clerked for the Chief Justice of Namibia and has worked for the African Mining Legislation Atlas and as a researcher in various units and institutes at UCT.

Godknows Mudimu's thesis assesses the effectiveness of codes of conduct used by mining companies as complementary regulatory instruments on labour standards. It investigates the failure of state regulatory instruments to protect all workers at mines (particularly those who are not direct employees of the mining houses themselves) by focusing on the enabling rights of freedom of association and collective bargaining and on the right to a safe working environment. Through assessing codes of conduct, tracing their development and usage by mining companies, Godknows Mudima places such instruments on a regulatory spectrum with varying degrees of state influence in their development. His thesis offers recommendations for redesigning codes of conduct to increase their legitimacy and effectiveness and to enable those codes to become democratic instruments in the regulation of labour standards.

Supervisor: Dr E Fergus (Commercial Law)
Co-supervisor: Professor H Mostert (Private Law)

Sithole, Linet
Thesis Title: *Women's right to access family planning and maternal health care services in Hwange Rural District, Zimbabwe: challenges and opportunities*

Linet Sithole holds an LLB degree and an MA in Human Rights Law from the University of Fort Hare. She joined the Faculty of Law at UCT in 2016 for her PhD studies. She is a lecturer in the Department of Private Law at Midlands State University, Zimbabwe.

Linet Sithole's thesis focuses on rural women's right to access family-planning and maternal health care services in rural Zimbabwe. She investigates factors that impede women from accessing such services – and potential opportunities to alleviate the limitations. She uses data gathered from interviews with women living in Hwange Rural District. Her findings show that lack of knowledge of reproductive health care rights, restrictive laws, physical barriers like distance to the nearest health facility, availability of services, poverty, religion and patriarchal tradition, are factors limiting women from accessing reproductive health care services. The findings suggest how laws and policies can respond directly to the unique challenges faced by rural women. Constitutional and human rights litigation may be possible. However, extra-judicial avenues including grassroots mobilisation and involvement of non-governmental organisations, emerge as the most promising opportunities to ensure that rural women have access to these services.

Supervisor: Associate Professor A Barratt

Smith, Stephen Eugene
Thesis Title: *The characterisation for South African taxation purposes of gains and losses arising from the use of equity financial derivative instruments*

Stephen Smith completed his BCom, BCom(Hons) and Advanced Taxation Certificate at UNISA. He consults on financial sector policy development, has served on Higher Education public entity boards and is a commercial

member of the Tax Court of SA. Stephen Smith's thesis considers the characterisation, for purposes of taxation, of gains and losses through financial derivative instruments. He does that since they are subject to general principles of tax law rather than specific provisions of SA tax legislation, and since South African case law offers limited guidance. He undertakes a detailed and extensive analysis of their treatment in the US, UK, Australia and SA. He then applies leading authorities received and interpreted to show that the tax consequences arising from the rights embodied in financial derivative instruments are the same as for any other kind of asset. He develops a legal definition of financial derivative instruments and proffers a recommendation towards a SA tax policy framework. Together these provide an insightful point of departure for SA courts and shed considerable light on a subject that is often seen as profoundly obscure in its complexity.

Supervisor: Emeritus Professor TS Emslie (Commercial Law)
Co-supervisor: Associate Professor T Gutuza (Commercial Law)

Stevens, Angela Gail
 Thesis Title: *Enforceable accountability: a corporate governance mirage for South African state-owned companies*

Angela Stevens completed her master's degree at UCT in 2016 and began part-time study towards her PhD in 2017. Angela Stevens' thesis focuses on the lack of accountability exhibited by State-Owned Companies ('SOCs') which has contributed to their deteriorating performance. SAA SOC Limited is utilised as the case study and a direct examination of their annual integrated reports illustrates a dire lack of accountability. This lack of accountability is evident despite the apparent implementation of the current statutory rules and the application of the recommended practices for good corporate governance. The negative impact which the state has, as the sole shareholder of SOCs, is also investigated as a major contributor to the accountability issue. A proposed framework, comprising

the implementation of new statutory measures and a reformed approach to corporate governance, is suggested to resolve the lack of accountability of SOCs. This framework also involves the application of an incentive-based mechanism to implement the concept of enforceable accountability for all SOCs in South Africa.

Supervisor: Associate Professor J Yeats (Commercial Law)

Thabane, Tebello Naphtali
 Thesis Title: *The ownership and control architecture of South Africa's state-owned companies and its impact on corporate governance*

Tebello Thabane holds BA (Law) and LLB degrees from the National University of Lesotho. He also holds an LLM from the University of Pretoria and an LLM from the University of the Free State. He is a senior lecturer in Commercial Law at UCT.

Tebello Thabane's thesis enquires whether poor corporate governance in state-owned companies (SOCs) can be attributed to the model of ownership and control. He first challenges the conceptualisation of SOCs as profit companies and argues that they should instead be conceptualised as public interest companies. He claims that the ownership model lacks a clear and consistent economic and political logic. He also argues that the state's ownership concentration leads to excessive shareholder control powers, which in turn engender political interference and erode the autonomy and authority of boards to govern effectively. He further argues that the legal and regulatory regime governing SOCs is complex and fragmented. He proposes a nuanced, minimalist and structured architecture underpinned by the public interest and characterised by the following: mixed ownership, in appropriate circumstances; a simplified legal and regulatory regime; professional boards; and a state holding company that will hold all state shares and shield the various SOCs from political interference.

Supervisor: Professor C Ncube (Commercial Law)
Co-supervisor: Dr K Idensohn (Commercial Law)

Tsietsi, Tso tang
 Thesis Title: *Trade facilitation in the Southern African development community: the potential contribution of the World Trade Organization's trade facilitation agreement*

Tso tang Tsietsi holds a Bachelor of Laws degree from the National University of Lesotho and a Master of Law degree from the University of Cambridge. She has enjoyed a career as an academic teaching international economic law.

Tso tang Tsietsi's thesis investigates the barriers to facilitated trade in the Southern African Development Community (SADC). These are barriers to the physical movement of goods across borders (imports and exports). She considers the shortcomings of the regional and international agreements that have regulated trade facilitation in the region. She finds these to be, in the main: normative deficiencies, a lack of flexibility to take into account each country's unique circumstances, inadequate technical assistance, weak institutional arrangements, and poor coordination and implementation strategies. Tso tang Tsietsi proposes that the World Trade Organization's Trade Facilitation Agreement has unique advantages that may render it an important contribution to the alleviation of the trade barriers. She thus argues that it may assist in improving SADC states' trade and development outcomes.

Supervisor: Professor F Ismail (The Nelson Mandela School of Public Governance)
Co-supervisor: Associate Professor A Ordor (Commercial Law)

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Aluko, Adebowale Adedayo (with distinction)
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Bukula, Obakhe
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Chataika, Chioniso Priscilla
Chetty, Parusha
Chikwete, Mufudzi Tawanda
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Cozzi, Savannah Alessandra
Davids, Chevaan
Davids, Luqman
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Dondashe, Somila
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Du Toit, Kayleigh Shaye
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Godana, Nikita
Gomwe, Simbarashe Nyasha (cum laude)
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Govender, Taryn
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Hadebe, Phumlile Thando
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Johns, Chelsea Beauty

Joubert, Wessel Lourens Pierre (cum laude)
Kapdi, Khatija Noor
Kaplan, Emma
Kgakong, Thato Anea
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Klette, Tamryn Pamela
Kolabhai, Mikhail Liam (magna cum laude)
Letshwiti, Lesego Thato
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Makututsa, Folane
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Marx, Etienne Jan
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Modiselle, Khutso Evelyn
Monnya, Bontle
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Moosa, Adeeb
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Moss, Nicholas Christopher Norman (magna cum laude)
Motala, Yameen
Muhwava, Eldonna Tsepang Vimbai
Mukaro, Vimbainashe
Mulenga, Denise Ngosa
Mullins, Lara Natalie
Mustapha, Lisa Blanche
Mutesasira, Yolanda Nandera
Naidoo, Nekaylan
Naidoo, Taliah
Nchodu, Dimakatso
Ncube, Junior
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Ndlovu, Sbhongumusa
Nemushungwa, Muwanwa
Niven, Gina Fitzpatrick
Nthoroane, Nthabeleng
Ntshingila, Luyanda Nonjabulo

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Olivier, Nicole
Owen, Michael Brian
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Parker, Zarreen
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Plaatjies, Danelle
Prins, Timon Joshua
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Ramesar, Orissa Jade
Ramnarayan, Saijal Inarman
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Rezandt, Zanalee
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Saravoyi, Tendai Julia
Sekgoma, Ruby Lenkeme Dumano
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Shaff, Maxine Leslie Georgia
Shaik, Firdous
Shaik, Raeesah
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Skosana, Thobile Noluthando
Slamdien, Nishaat
Sulaiman, Muddathir
Sutherland, Katherine
Tennant, Dean
Thesen, Philippa
Thobela, Chwayita
Tshabalala, Thembelihle
Tshifularo, Muofhe
Tuchten, Amy
Turkington, Christine Anne (cum laude)
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Van Son, Claire Elisa Clothilde (magna cum laude)
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Wakefield, Megan Joy
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Westermeyer, Brigitte Leonie (cum laude)
Zimmermann, Stefan Miguel

VISION AND MISSION

UNIVERSITY OF CAPE TOWN

Vision

An inclusive and engaged research-intensive African university that inspires creativity through outstanding achievements in learning, discovery and citizenship; enhancing the lives of its students and staff, advancing a more equitable and sustainable social order and influencing the global higher education landscape.

Mission

UCT is committed to engaging with the key issues of our natural and social worlds through outstanding teaching, research and scholarship. We seek to advance the status and distinctiveness of scholarship in Africa through building strategic partnerships across the continent, the global south and the rest of the world.

UCT provides a vibrant and supportive intellectual environment that attracts and connects people from all over the world.

We aim to produce graduates and future leaders who are influential locally and globally. Our qualifications are locally applicable and internationally acclaimed, underpinned by values of engaged citizenship and social justice. Our scholarship and research have a positive impact on our society and our environment.

We will actively advance the pace of transformation within our University and beyond, nurturing an inclusive institutional culture which embraces diversity.

THE UNIVERSITY OF CAPE TOWN DONOR ROLL

The University of Cape Town gratefully acknowledges the sustained contributions of the following partners. Their generosity has assisted us toward our goals of improving student access to tertiary education and promoting curriculum, staff and student transformation; increasing our research capacity; and implementing programmes that promote social engagement and community upliftment.

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The Albert Wessels Trust
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Actuarial Society of South Africa
Alliance for Open Society International
Andreas and Susan Struengmann Foundation gGmbH
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Discovery Fund
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Open Society Foundation for South Africa
The Oppenheimer Memorial Trust
The Raymond Ackerman Foundation
Rustenburg Platinum Mines Ltd
Sigrid Rausing Trust
The South African National Roads Agency Ltd
The Spencer Foundation
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Bronze Circle

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Abe Bailey Trust
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AECI Ltd
The African Development Bank Group
Afrisam (Pty) Ltd
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American Council of Learned Societies
Anglo American Group
Arab Bank for Economic Development in Africa
Aspen Pharmicare Ltd
AstraZeneca Pharmaceuticals (Pty) Ltd
Attorneys Fidelity Fund
Aurecon South Africa (Pty) Ltd
Aurum Charitable Trust
Australian High Commission
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The Beit Trust
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- Chancellor's circle: formerly R250 000+, now R500 000+;
- Vice-Chancellor's Circle: formerly R100 000 – R250 000, now R250 000 – R500 000;
- Dean's circle: formerly R60 000 – R100 000, now R100 000 – R250 000;
- Friends of UCT: formerly <R60,000, now <R100,000.

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